

**INFORMAL CONFERENCE**  
**The Black Diamond Company**

**PN# 1601788**

**Big Stone Gap Office - October 13, 2011**

**MR. MOONEY:** Good afternoon everyone, my name is Harve Mooney. I am the Hearing's Coordinator for the Virginia Department of Mines, Minerals and Energy. This is an informal conference concerning the permit renewal for an application. That particular application belongs to The Black Diamond Company, Permit No. 1601788. This procedure is to address...receive comments from the general public. I guess I should note also that this is not an adversarial procedure...no cross-examination, we're just here to receive any comments that you or any other citizens may have in reference to this...I believe we are here at the request of Mr. Stiltner....you're Mr. Stiltner?

**MR. STILTNER:** Yes, sir, and Mr. Rice

**MR. MOONEY:** And Mr. Rice?

**MR. STILTNER:** Yes.

**MR. MOONEY:** And gentlemen, if you would please, uh, I'll tell you a little bit about this....In accordance with 4 VAC 25-130 of the regulations of VA, a valid permit carries with it successive renewal....that is after a period of existing...after the existing permit time runs out, they have a right to request an extension. Uh, a copy of this particular renewal I have here before me....and it's here for your benefit to look at. If you have any questions or anything that you would like to put in place in reference to that. Also, we have the review inspector here, Mr. Tim Cox and we also have Reclamation Inspector Ryan Deel. Mr. Cox has a PC there that's available with this particular application because it is an electronic application. Uh, the final decision on this permit to approve, disapprove or require additional information for consideration must be made within 60 days of this particular hearing. Uh, the permittee and anybody who is adversely affected will be informed of what our determination is and the process of how you can request a formal review, should you not be pleased with the determination of this particular action.

**MR. STILTNER:** That was one of my questions. Uh, if we don't agree upon uh, what you recommend on this or what you do, uh, we have a right to request a formal hearing before the permit is renewed, correct?

**MR. MOONEY:** Yes sir. I should also note, uh, as you do make comments, before....please specify your name and that will make it a lot easier for Ms. Gates to do the transcript.

**MR. STILTNER:** Ok.

**MR. MOONEY:** But, in reference to that particular matter, yes, regardless of our decision, as...of course with the Administrative Process Act of Virginia, you have the right of administrative review of any decision that the Division makes.

**MR. STILTNER:** Ok.

**MR. MOONEY:** And, essentially when you receive this final decision from us, you will also be given instructions as to how to request a formal review.....

**MR. STILTNER:** The time period that I have (inaudible), ok.

**MR. MOONEY:** If you'd like to begin, uh, Mr. Stiltner, since you did request this conference , uh, please state your name for the record and give us any comment that you so desire....

**MR. STILTNER:** Ok, my name is James Stiltner, uh, and I'm here because of the contract agreement that we had here, uh, was done the 26<sup>th</sup> day of September, 2001, which, the contract is up for the mining part. And, uh, I'm in agreement of page 8 of this agreement. It had in there that anything they disturbed within the exterior boundaries of our property would be put back as pasture land.

Ok, uh, I started talking to them down at the Big Rock office, to Bill Fuller, Henry Cox and them back in April of this year on this and Bill told me he was aware of it, but Henry said "Well, there's a problem, because I've already re-seeded it, and I seeded it in Locust and mixture for unmanaged forest land because we didn't permit any of that as pasture land".

So what I want done....and I hired an attorney to write them a letter...not for nothing else but to write a letter giving them thirty (30) day notice.....I don't know exactly what day he got it sent out....we talked to him on the 9<sup>th</sup>, so the letter probably didn't go out until the following week or maybe two, to meet with us and try to work this out.

Now, right here is some pictures of where they reclaimed....where they re-seeded, you know. There's no way that can be considered pasture land. So what we want is to scalp all that back off and redo it in pasture land. And that's basically all we got. We can't get no response from them but according to our contract, and when the thirty (30) days is up what our plans a doing, we're going to have contractors go in there and give us an estimate on this....and that's what we're going to sue for. But, uh, or, they can go in there and scalp all this off but, on this computer right here's the pictures of where they sowed trees in it and their employees admitted, "yeah, we didn't know it was supposed to be pasture so we put trees back on it."

So, uh, it's Locust and it's already seeded, so the only way to get rid of that is to scalp it off and this particular holler here, we own from the top of the mountain all the way to the mouth of Convict Holler – its 601 where that trailer sits. And all that's permitted so that's where we want it took off....from the top to where you leave Route 601. Also, in the other Holler, we don't go quite to the top in

behind the subdivision, but we own almost up to where it's stripped. It's been surveyed so it's uh, well marked where my lines are. And we just want it took back to what this original contract called for. Now, they're still stripping....not on our property but on out past us and they cleaned the coal up that they had on us; and part of it they moved above us and part of it they took back out there, they're still hauling across...you know. They say they've got the right. I don't know but we're going to have an attorney look into it and see if they have got the right to keep hauling across us after the contract is up.

And uh, you all have a contract....a copy of the contract here, I think; I brought it in June and left it over here in the office. And, uh, so that's basically all we got. We just want them to uphold the contract and their contract is up on us and we don't think that it should be renewed....include our part and let them keep hauling across us, you know, and stripping after the contract's up. And also, we think....this would be different if they hadn't sowed these trees there, you know. If it'd come up on its own, it may be different. But, uh, their own employee, Henry Cox, said he sowed that like that because he was not told any different. And because he was looking at the permit, which was permitted as unmanaged forest land..., and that's basically all we got to say.

**MR. MOONEY:** Ok, Mr. Rice would you like to add something.....

**MR. RICE:** My name is Jim Rice, James, and that's what we have to say right there. That's what we want.

**MR. MOONEY:** So, so just for the record, I'm clear that the issue is that the area has been reclaimed to a condition other than what.....

**MR. STILTNER:** Other than what was agreed upon in the contract. Some of it they just done within the last two or three weeks.....that they reclaimed.....they moved the stockpile off and seeded it. But there's not an inch of dirt on a lot of it. It's right down on the rock, you know. And along with all this, it's got a lot of big rocks and stuff left in it that's not even covered with dirt....a lot of stumps and then this they did the other day.....it's got a lot metal, wire and big pieces of metal, roof bolts, I mean.....I'll be glad to walk up there with any of you and let you see it and show you what I'm talking about on the thing....I've met with Ryan Deel and Bill Fuller on this before, you know, and uh, but now, I just wanted to make it aware that if this is changed to pasture land that all this stuff is going to have to be scalped over or we're going to take it to court and let them settle it. Because, their own employee admits he sold this stuff on it.

Another thing I'd like to add...my name's James Stiltner, and I'm speaking again. You know, according to the advertisements in our local paper, uh, that you all had these permits and stuff over here.....before that was advertised..... Well, after it'd been advertised the second week, I came over here on the 19<sup>th</sup> of August and talked to Mr. Baker. And they...you all didn't have that in your office here. It'd already been advertise twice. And, I talked to Mr. Meacham about it, you know, that they'd run that twice before you all even had the, the paperwork in the office. And, the ad says when it was put in the paper that it was here but it wasn't here. And it'd already been run twice in the local paper.

I just wanted to add that to it. And I also talked to Danny Bailey in the Lebanon office and he didn't have it in the Lebanon office either.

**MR. MOONEY:** What paper was that in?

**MR. STILTNER:** The Virginia Mountaineer.

**MR. NUNLEY:** Tim (Cox), can you pull up the publication please?

**TIM COX:** Huh?

**MR. NUNLEY:** Can you pull up the publication please?

**MR. COX:** I don't have it yet do I?

**MR. NUNLEY:** Well, it should be in, the, the sample publication.....

**MR. COX:** Oh, the sample would be, yeah.

**MR. STILTNER:** I have copies of it right here.

**MR. COX:** Here's the sample but I don't have the proofs, the proof of publication...

**MR. MOONEY:** Ok, anything else Mr. Stiltner?

**MR. STILTNER:** That's it.

**MR. MOONEY:** Is there anyone else who'd like to make comment?

**MR. NUNLEY:** (Raises hand) let me look at this (referring to publication on screen).

**MR. COX:** What part did you want to see?

**MR. NUNLEY:** (Inaudible).....should have been in the Buchanan County Court House.....not, not, well, the files are of course on DMLR's EP but the public display copy is on...should be in the Buchanan County Court House.

**MR. STILTNER:** (Reading) yea, it says a copy of the application materials is available for public inspection and comment at the Buchanan County Courthouse. A copy draft of the draft NPDES permit and fact sheets are available for public inspection and comment at the Big Stone Gap office. It says they are but they weren't.

**MR. MOONEY:** Ok, anyone else? (No response). Ok, I should note that this particular hearing your objection is to the renewal of the permit?

**MR. STILTNER:** Yes sir.

**MR. MOONEY:** So at which time we make a determination as to...

**MR. STILTNER:** Ok.

**MR. MOONEY:** Then like I said, within sixty (60) days, we have three opportunities to..... three options: We can either deny the permit, approve the permit, or request

additional information....within 60 days we have to make that determination for this particular hearing. Once we make that determination, you will be notified of what decision was made and of any rights that you may have as far as proceeding to a formal hearing.

**MR. STILTNER:** Ok, good enough. Thank you.

**MR. MOONEY:** Is there anything else anyone would like to add? (No response). Ok, therefore this hearing is officially closed and hopefully I will get the comments that we have here and once the transcript done, I'll send to you....

**MR. STILTNER:** Ok, thank you.

The hearing was adjourned at 1:20 p.m.